

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 250 OF 2012
(Arising out of SLP(C) No.5412/2011)

FIROJUDDIN & ANR.

Appellant(s)

:VERSUS:

BABU SINGH
Respondent(s)

O R D E R

Leave granted.

The appellants purchased the open and closed area of House No.3, North Gafur Ki Bajariya, Indore by a registered Sale Deed from Smt. Kaushar Farzana daughter of Hakim Ajmal Khan of Indore. The respondent herein was residing in the two rooms constructed on the ground floor of the aforesaid house on rent since the time of Smt. Kaushar Farzana. The appellants-plaintiffs filed a suit for possession by way of ejectment of the respondent-defendant from the suit property and for payment of

arrears of rent under Sections 12(1)(a), (e) & (c) of the M.P. Accommodation Control Act, 1961. They contended that the respondent-defendant has defaulted in payment of rent and that they do not have any other alternative suitable residential accommodation in the City of Indore.

The Trial Court, inter alia, held that the relationship of landlord and tenant between the appellants-plaintiffs and the respondent-defendant has been proved and the respondent-defendant was held liable to pay arrears of rent. Being aggrieved by the judgment and decree passed by the Trial Court, the respondent-defendant filed an appeal before the Court of Additional District Judge, Indore. The First Appellate Court holding that the appellants-plaintiffs have bona fide requirement of the suit property for residence, dismissed the appeal filed by the respondent-defendant. The respondent-defendant thereafter filed second appeal before the High Court of Madhya Pradesh, Indore Bench.

The High Court held that "even if it be taken that the title of the plaintiffs is duly established, on the basis of the sale deed, but still unless and until the relationship of landlord and tenant between the parties is also established, the suit for possession, by way of ejectment, could not have been decreed." Consequently, the appeal filed by the respondent-defendant was allowed and the judgments and decree of the Courts below were set aside by the High Court. The appellants-plaintiffs are thus before this Court by challenging the judgment and order passed by the High Court of Madhya Pradesh, Indore Bench.

We have heard the learned counsel for the parties and have perused the impugned judgment and the judgments of the Courts below.

It is not disputed that the suit property is in possession of the respondent-defendant. The Trial Court having held that the relationship of landlord and tenant between the appellants-plaintiffs and the respondent-defendant was proved and this finding having been affirmed by the First Appellate Court,

in our considered view, the High Court committed an error by setting aside the judgments and decrees of the Courts below and allowing the appeal of the respondent-defendant.

Accordingly, the impugned judgment is set aside, the judgment and decree passed by the Trial Court is restored and the appeal is allowed. Parties are directed to bear their respective costs.

However, as prayed for by the learned counsel for the respondent, two years' time is granted to the respondent to vacate the premises upon filing usual undertaking in the Registry of this Court within four weeks from today.

JUDGMENTJ
(DALVEER BHANDARI)

.....J
(DIPAK MISRA)

New Delhi;
January 06, 2012.